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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

HARVEY, DAVID E

ART UNIT

PAPER NUMBER

2621

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/511,971	<b>Applicant(s)</b> BERNSEN ET AL.	
	<b>Examiner</b> DAVID E. HARVEY	<b>Art Unit</b> 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-11 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                          | 6) <input type="checkbox"/> Other: _____                          |

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**1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:**

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**This application currently names joint inventors. In considering patentability of the under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).**

**Further, currently, the applied references have not been disqualified as references under 35 U.S.C. 103(c) because there is no showing that the invention was owned by, or subject to an obligation of assignment to, the same entity as of the time this invention was made. For example, applicant has not provided a statement that the application and the references were owned by, or subject to an obligation of assignment to, the same person at the time the invention was made in a conspicuous manner, and therefore, the references are not disqualified as prior art under 35 U.S.C. 103(a). Applicant must file the required evidence in order to properly disqualify the reference under 35 U.S.C. 103(c). See MPEP § 706.02(I).**

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**2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent #6,377,518 to Auwens et al in view of U.S. Patent #6,643,228 to Van Nieuwenhoven.**

A) U.S. Patent #6,377,518 to Auwens et al. has been cited because it describes a system (e.g., figure 2) for formatting a DVD during recording, wherein the DVD (figure 1a) is formatted to have an allotted free area (@ 12) of an allotted size for accommodating required control information (e.g. entry data), wherein the allotted size of the free area is set to be smaller than might required to store all of the generated control information be needed and, wherein when the generated control information exceeds the allotted space said control information is restricted/modified to be of a lesser volume [e.g., lines 1-57 of column 12].

Claim 1 differs from the showing of Auwens et al in that Auwens et al: does not explicitly state that the parameters being calculated include entry point parameters of an entry point list/table; and does not described the specific methods of calculating entry points as recited in instant claim 1.

B) U.S. Patent #6,643,228 to Van Nieuwenhoven has been cited because it describes a system in the number of entry points is in an entry point list is maximized for a memory of a given "fixed" size [Note lines 47-50 of column 4]. The described system operates:

1) To generate and entry point list/table by:

a) To determine the "fixed" memory space that is available to hold/store the entry point list/table and to determine therefrom the maximum number of entry points that can be held/stored therein;

b) To detect the size of the data stream that is to be stored and indexed via the entry point list/table;

c) To determine the number of entry point that can be held/stored in the "fixed" memory space; and

c) To define a predetermined number of entry points that are an equal distance from each other by dividing the data stream into N equal distances, wherein N is equal to the number of entry points that can be held in an entry point table/list via the "fixed" memory space

[Note: lines 5-18 of column 9; claim 3; and lines 20-50 of column 4].

Claim 1 differs from the showing of Van Nieuwenhoven only in that claim 1 recites steps for recalculating the number of entry points in the list/table when the number of generated entry points, i.e., the size of the entry point table/list, exceeds a set size. It is noted that such an iterative recalculating process is not needed in the system disclosed by Van Nieuwenhoven because the size of the memory allotted to holding the entry point table/list is presumed to be fixed and, thus, the maximum number of entry points that can be used/stored is likewise presumed to be fixed.

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C) While not specified, one of ordinary skill in the art would have understood that the control parameters described in Auwens et al inherently included entry point parameters of an entry point table/list that must be stored in the “available” free memory space described therein [note lines 11-11-19 of column 4 in Van Nieuwenhoven]. As such, it would have been obvious to one of ordinary skill in the to have utilized the specific method of generating an entry access point list/table described by Van Nieuwenhoven to calculate the entry access point list/table in Auwens et al. Being that the “available” free space for such lists/tables is not fixed in the application described by Auwens et al, the entry points of the entry point list/table would necessarily have had to be recalculated each time the available free space changed. When the available memory space becomes smaller, the entry point would have had to be recalculated using larger intervals.

**3. Claims 2-5 and 7-11 are is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent #6,377,518 to Auwens et al in view of U.S. Patent #6,643,228 to Van Nieuwenhoven for the same reasons that were set forth above for claim 1. Additionally:**

A) With respect to claim 7, it is noted that a respective entry point list/table would have to be generated/stored for each program (i.e., “data stream”) that was to be recorded.

B) With respect to claims 8 and 11, note line 66 in column 2 of Van Nieuwenhoven; i.e.; an optical disc is, by definition, a “record carrier”.

C) With respect to claim 9, it is noted that the method described by Van Nieuwenhoven is driven by “computer” instructions and that such instruction must be stored/provided via a computer readable carrier.

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**4. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.**

**5.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID E. HARVEY whose telephone number is (571) 272-7345. The examiner can normally be reached on M-F from 6:00AM to 3PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller, can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/DAVID E HARVEY/

Primary Examiner, Art Unit 2621

DAVID E HARVEY  
Primary Examiner  
Art Unit 2621